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2 MR. KIRKEBY: Thank you. Before I get  
3 started with my testimony, just a couple of  
4 items. I do have copies. I'll be providing the  
5 court reporter with one and putting one in the  
6 comment box. And there's also additional copies  
7 on the back table, should anybody like to have  
8 one.

9 THE FACILITATOR: Very thoughtful. Thank  
10 you.

11 MR. KIRKEBY: I must apologize. I have the  
12 onset of a cold coming, so if I sound stuffier  
13 than I did this morning, that's why.

14 My name is Kevin Kirkeby. I'm a  
15 member of the Board of White Pine County  
16 Commissioners. I'm here today on behalf of the  
17 White Pine County Commission and White Pine  
18 County to offer preliminary comments on the  
19 adequacy of the Draft Environmental Impact  
20 Statement for the Yucca Mountain project as a  
21 decision-support document.

22 THE FACILITATOR: Sir, before you go  
23 farther, you say you can't hear?

24 AUDIENCE MEMBER: It's tough to hear him.

25 MR. KIRKEBY: I'll split the difference

1 here.

2 THE FACILITATOR: Okay.

3 MR. KIRKEBY: White Pine County intends to  
4 supplement my remarks today with formal written  
5 comments to the Draft Environmental Impact  
6 Statement.

12 7 [Let me begin by expressing my  
8 appreciation to the Department of Energy for  
9 electing to hold hearings on the Yucca Mountain  
10 Draft Environmental Impact Statement in Ely.]

1 11 As my comments will reveal, [White Pine  
12 County is concerned that the Department of Energy  
13 has, and may continue in the future, to largely  
14 ignore the legitimate concerns of the County and  
15 its residents regarding ongoing and planned  
16 radioactive waste management activities in  
17 Nevada. I trust that DOE's presence here today  
18 is a recognition by the Department that  
19 management of radioactive waste in Nevada must be  
20 done in consultation with all affected parties.  
21 And White Pine County is affected by the  
22 Department of Energy's ongoing and proposed  
23 radioactive waste management activities in  
24 Nevada.]

2 25 [In general, the Department of Energy

1 and its contractors are to be commended for  
2 preparing the draft EIS, which is well organized  
3 and concise. The use of summary and comparative  
4 tables makes reviews of the EIS manageable. Ample  
5 use of the graphics serves to illustrate key  
6 technical concepts. The willingness of DOE to  
7 make the draft EIS widely available to the public  
8 through various media will, I trust, facilitate  
9 review by interested members of the public.]

10 White Pine County's review of the  
11 draft EIS is motivated by its responsibility to  
12 protect the public health, safety, and welfare of  
13 area residents. White Pine County will pursue all  
14 means necessary to minimize the risk associated  
15 with ongoing and planned DOE radioactive waste  
3 16 management activities in Nevada. [The County  
17 intends to exercise each and every option  
18 available to ensure that current and planned DOE  
19 radioactive waste management activities in Nevada  
20 do not result in any disequitable allocations of  
21 health risk, economic harm, or fiscal  
22 requirement.

23 White Pine County believes that the  
24 draft EIS must provide an adequate assessment of  
25 ongoing and proposed radioactive waste management

1 activities in Nevada, as such activities pose  
2 impacts to public health, safety, and welfare of  
3 County residents.

4 White Pine County believes the draft  
5 EIS may be inadequate as a NEPA document capable  
6 of supporting a decision by the Secretary of  
7 Energy to recommend the Yucca Mountain site to  
8 the President as a deep geologic repository. The  
9 failure of the document to consider key issues  
10 raised by White Pine County during the scoping  
11 process may render the draft EIS legally  
12 insufficient. DOE is encouraged to give careful  
13 consideration to the comments offered today, and  
14 those received in writing, and to prepare a final  
15 EIS which adequately addresses issues of concern  
16 to White Pine County.

17 White Pine County understands that the  
18 draft EIS, once finalized, may be utilized to  
19 support the following decisions: A decision by  
20 the Secretary of Energy to recommend to the  
21 President that the Yucca Mountain site be  
22 nominated to Congress as the first deep geologic  
23 repository for spent nuclear fuel and other  
24 high-level radioactive waste; a decision by the  
25 Administration and the Congress to construct,

1        operate, monitor, and eventually close a geologic  
2        repository for the disposal of spent nuclear fuel  
3        and other high-level radioactive waste; a  
4        decision by the Administration and the Congress  
5        on what mode or modes of transportation, i.e.,  
6        mostly rail, or mostly truck, to use in  
7        transporting spent nuclear fuel and other  
8        high-level radioactive waste from generator sites  
9        to the repository site.

10                A decision by the Administration and  
11        the Congress on what highway routes and/or rail  
12        corridors, including locations of rail-to-truck  
13        intermodal facilities, to use in transporting  
14        spent nuclear fuel and other high-level  
15        radioactive waste from the generator sites to the  
16        repository site; a decision by the Nuclear  
17        Regulatory Commission to issue a license to the  
18        Department of Energy to construct the Yucca  
19        Mountain repository; and, a decision by the  
20        Nuclear Regulatory Commission to issue a license  
21        to the Department of Energy to operate the Yucca  
22        Mountain repository.

23                White Pine County's continuing review  
24        of the draft EIS is intended to render a  
25        conclusion on the adequacy of the document to

1 support each of these key decisions.

2 With regard to specific comments on  
4 3 the draft EIS, [White Pine County is particularly  
4 troubled by the DOE's failure in the draft EIS to  
5 recognize the County and its residents as  
6 potentially impacted by ongoing and proposed  
7 radioactive waste management activities in the  
8 State of Nevada.

9 During scoping, White Pine County made  
10 a credible case for consideration of the impacts  
11 of low probability/high consequence events, such  
12 as volcanism upon the residents and environment  
13 of the County. In addition, our scoping comments  
14 clearly demonstrated the potential for shipments  
15 of spent nuclear fuel and high-level radioactive  
16 waste to be transported by legal-weight truck  
17 through White Pine County.

18 Despite the direct risk to resident  
19 public health, safety, and welfare associated  
20 with the Yucca Mountain project, the draft EIS  
21 does not afford any assessment of impacts to  
22 residents and the environment in the County.]

5 23 [The failure to consider impacts in  
24 White Pine County appears contradictory to the  
25 Secretary of Energy's previous action to

1 designate the County as affected pursuant to the  
2 Nuclear Waste Policy Act. The Secretary's  
3 designation, which is not required but is  
4 discretionary, clearly suggests the relationship  
5 of ongoing and proposed DOE radioactive waste  
6 management activities in Nevada to possible  
7 localized impacts in White Pine County. It is  
8 inconceivable that the Secretary of Energy would  
9 consider White Pine County affected, yet the  
10 draft EIS would not consider impacts which might  
11 accrue to residents and/or the environment of the  
12 County.]

6

13 [The contradictory nature of the  
14 omission of any substantive discussion of impacts  
15 in White Pine County is also apparent when one  
16 considers DOE's selection of transportation  
17 routes and related impacted corridor communities  
18 within the draft EIS.

19 The third paragraph on page 6-35 of  
20 the draft EIS includes the following statement:  
21 Because the State of Nevada has not designated  
22 alternative preferred routes, only one  
23 combination of routes for legal-weight truck  
24 shipments would satisfy U.S. Department of  
25 Transportation routing regulations, I-15 to

1 U.S. Highway 95 to Yucca Mountain. DOE elected  
2 not to consider the impacts or a region of  
3 influence along the State of Nevada identified  
4 candidate alternate routes.

5 However, the first full paragraph of  
6 2-44 contains the following statement: The EIS  
7 analysis assumed that the proposed interstate  
8 bypass around the urban core of Las Vegas, the  
9 Las Vegas Beltway, would be operational before  
10 2010. DOE could have just as easily assumed that  
11 the State of Nevada would designate one or both  
12 alternative routes it identified to keep waste  
13 shipments out of the Las Vegas urban core. The  
14 failure of DOE to include an assessment of the  
15 impacts of the State of Nevada identified  
16 alternative legal-weight routes as a serious  
17 deficiency of the draft EIS.

18 The likelihood that the State of  
19 Nevada will designate alternative routes for  
20 legal-weight trucks that avoid the Las Vegas  
21 Valley is borne out in the State's acquiescence  
22 to the use of routes through White Pine County to  
23 transport low-level radioactive wastes across  
24 Nevada to the Nevada Test Site. As the DOE is  
25 aware, the use of northern highway routes for



1 low-level radioactive waste has effectively  
2 shifted any transportation risks from the  
3 Las Vegas area to rural Northern Nevada counties.

4 Failure of the draft EIS to consider  
5 the impacts of legal-weight truck transportation  
6 through White Pine County is made worse by Table  
7 J-40 -- 48, excuse me, which demonstrates that  
8 risks of transporting spent fuel and high-level  
9 radioactive wastes through the County are  
10 significantly greater than the risks for the Base  
11 Case, the routes allowed by current Department of  
12 Transportation regulations for highway  
13 route-controlled quantities of radioactive  
14 materials. The fact that low-level radioactive  
15 waste is also being transported on a route  
16 through White Pine County raises the specter of  
17 significant cumulative impacts.

18 The final EIS must evaluate the  
19 direct, indirect, and cumulative impacts of  
20 transporting all forms of radioactive wastes  
21 through White Pine County. As noted in White Pine  
22 County's comments on the scope of the EIS, the  
23 final EIS must consider the extent to which local  
24 emergency first response capabilities serve to  
25 mitigate or exacerbate the risks. The extent to

1       which environmental conditions in the County,  
2       i.e., climate and wildlife, bear upon  
3       transportation risks should be considered.  
4       Measures to mitigate transportation risks, at  
5       least to a level commensurate with the Base Case,  
6       should be identified and evaluated within the  
7       final EIS.]

6  
(cont'd)

8               [The National Environmental Policy Act,  
9       NEPA, requires federal agencies to consider  
10      connected actions. Construction and operation of  
11      a repository at Yucca Mountain will result in  
12      spent nuclear fuel and high-level radioactive  
13      waste being transported through Nevada, in all  
14      likelihood, by legal-weight truck in the  
15      short-term. The prospect of transportation of  
16      spent nuclear fuel and high-level radioactive  
17      waste through the Las Vegas Valley will trigger a  
18      decision by the Governor of Nevada to designate  
19      alternative routes. Therefore, the final EIS must  
20      consider the impacts of State of Nevada  
21      identified alternative routes as a connected  
22      action pursuant to NEPA.]

8

23              Finally, [with regard to the failure of  
24      the draft EIS to adequately address  
25      transportation impacts, it is important to note

1       that the transportation induced stigma must also  
2       be considered within the final EIS. Research  
3       sponsored by the Board of Lincoln County  
4       Commissioners has demonstrated that a  
5       transportation induced stigma can result in  
6       significant economic and fiscal impacts along  
7       transportation corridors.

8               In the event of an accident involving  
9       transportation of spent nuclear fuel in the weeks  
10      preceding peak tourist travel to and through  
11      White Pine County, local businesses may be  
12      impacted and tax revenues lost to White Pine  
13      County and the City of Ely. It could take several  
14      weeks to many months for the area to recover from  
15      negative perceptions about safe travel in the  
16      County.]

9       17               [A serious omission in the draft EIS is  
18      the identification and evaluation of alternatives  
19      for mitigation of impacts. White Pine County's  
20      preliminary review of the draft EIS has found no  
21      obvious commitments by DOE to mitigate any  
22      impacts. The final EIS must include both  
23      identification and evaluation of mitigation  
24      alternatives, as well as commitments to feasible  
25      mitigation measures.]

10

1           [ White Pine County is also concerned  
2       that the no-action alternatives described within  
3       the draft EIS are not reasonable, and as a  
4       consequence, impacts associated with said  
5       alternatives may be highly overstated. For  
6       example, it is very unlikely that spent nuclear  
7       fuel at generator sites would lose all  
8       institutional oversight and management after 100  
9       years.

10                 Indeed, DOE is considering oversight  
11       and active management monitoring of the Yucca  
12       Mountain site for a period extending to, perhaps,  
13       300 years. No-action alternative number 2 should  
14       be reconsidered and perhaps eliminated all  
15       together as infeasible. ]

11

16           [ Let me close by stating that White  
17       Pine County's belief that the description of the  
18       repository system, including transportation, is  
19       too vague to enable assessment of impacts. The  
20       degree of ambiguity and uncertainty associated  
21       with key assumptions, i.e., whether or not State  
22       of Nevada will designate alternate routes,  
23       renders the analysis deficient for decision  
24       support. DOE is encouraged to validate  
25       assumptions, reduce uncertainty, and to remove as

1 much ambiguity as possible in presenting a  
2 revised analysis of impacts in the final EIS.]

3 I trust that these preliminary  
4 comments, together with formal written comments  
5 the County intends to submit, will assist DOE in  
6 preparing a final EIS which adequately responds  
7 to the requirements of NEPA, supports the various  
8 decisions which may be based in part upon  
9 analyses contained therein, proposes effective  
10 measures to mitigate impacts, and assists White  
11 Pine County in meeting its responsibility to  
12 protect the public health, safety, and welfare of  
13 its residents. Thank you.

14 THE FACILITATOR: Thank you, Mr. Kirkeby.

15 MR. SKIPPER: Thank you, Kevin.

16 THE FACILITATOR: Our next speaker is Harry  
17 Kelman. He will be followed by Shirley Towne.